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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/045,724

10/26/2001

Wyatt Allen Huddleston

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09/26/2007

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EXAMINER

AVELLINO, JOSEPH E

ART UNIT

PAPER NUMBER

2143

MAIL DATE

DELIVERY MODE

09/26/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/045,724

Applicant(s)

HUDDLESTON ET AL.

Examiner

Joseph E. Avellino

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-22 are presented for examination; claims 1, 11, 18, and 21 independent.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 6, 2007 has been entered.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-22 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification does not enable one of ordinary skill in the art for the WIAD

not to have a complete set of the control instructions for the intelligent device. This would cause undue experimentation and would not be a limitation which would flow naturally from the disclosure. Correction is required.

Claim Rejections - 35 USC § 103

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-3, 5, 8, 9, 11-13, 15, and 17-22 are rejected under 35 USC 103(a) as being unpatentable over Escobosa et al. (US 2003/0151538) (hereinafter Escobosa) in view of Allport (USPN 6,104,334).

6. Referring to claim 1, Escobosa discloses a method for command brokering on behalf of an intelligent device (i.e. home theater equipment) (e.g. abstract) which discloses:

defining in a client device a desired function to be performed by the intelligent device (i.e. various operations), the desired function being only a portion of all functions that the intelligent device is capable of performing (i.e. the system only downloads IR sequences to perform various operations such as channel tuning to a particular TV station, setting up various equipment, etc.) (¶ 65);

identifying the intelligent device and the desired function to a web site (i.e. supplier site 30) having control instructions for the intelligent device by the client device through a network (Figure 4a; ¶ 66);

returning to the client device from the web site, a subset of the control instructions (i.e. sequences) for controlling the intelligent device to perform the desired function (i.e. user access the web site to download sequences of pre-programmed instructions to perform various operations) (¶ 65-66); and

forwarding only a subset of the control instructions from the remote control to the intelligent device to effect the desired function (i.e. when the user purchases a pay-per-view movie, the icon and code for unlocking the movie are downloaded to the remote controller, no other codes are downloaded to the remote) (¶ 65-67);

wherein the client device does not have a complete set of the control instructions for the intelligent device (i.e. only those movies which the user has paid for have the codes downloaded to the remote, therefore all the codes in order to unlock all the movies are not found on the client device, and therefore meets the limitation) (¶ 67).

Escobosa does not disclose that the defining is done using the wireless internet access device (i.e. the remote control). In analogous art, Allport discloses another method for command brokering for a device which discloses defining on a wireless internet access device a desired function to be performed on the device (i.e. the user is capable of modifying the look-and-feel of the remote control, modify button functionality, etc.) (Figure 1, ref. 80; e.g. abstract; col. 5, line 50 to col. 6, line 13; col. 23, line 59 to col. 24, line 31). It would have been obvious to one of ordinary skill in the art to

combine the teaching of Escobosa with Allport in order to allow the remote control of Escobosa the ability to define its own layout without the need of the client computer, in order to download sequences of instructions to perform various operations by use of the "new layout" screen 80 of Allport in order to allow the remote control to access the Internet or other data source to provide a rich set of functionality as supported by Allport (e.g. abstract).

7. Referring to claim 2, Allport discloses the forwarding step comprises forwarding through an infrared communication device (col. 27, lines 40-50).

8. Referring to claim 3, Allport discloses forwarding through an RF interface (col. 27, lines 40-50).

9. Referring to claim 5, Escobosa discloses the defining step comprises defining through a user keypad entry (i.e. touchpad) (col. 23, line 59 to col. 24, line 31).

10. Referring to claim 8, Escobosa discloses arranging for the web site to have access to the control instructions by pre-programming the control instructions into a memory of the web site (i.e. server with database 12) (Figure 1).

11. Referring to claim 9, Escobosa discloses accessing a server 30 having the control instructions 14 for controlling the intelligent device (Figure 1; ¶ 47).

12. Claims 11-13, 15, and 17-22 are rejected for similar reasons as stated above. Furthermore Escobosa discloses that the device explicitly identifies the function to the web site to perform a set of functions (§§ 65-67).

Claims 4, 6, 7, 14, 16, are rejected under 35 U.S.C. 103(a) as being unpatentable over Escobosa-Allport in view of Maymudes (USPN 6,748,278).

13. Referring to claim 4, Escobosa-Allport discloses the invention substantively as described in claim 1. Escobosa-Allport does not disclose forwarding through ultrasonic communication device. In analogous art, Maymudes discloses another method of brokering on behalf of an intelligent device wherein the forwarding can occur through an ultrasonic communication device (i.e. Bluetooth) (col. 3, lines 20-32). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Maymudes with Escobosa-Allport since Escobosa discloses the invention can be used with a plurality of different devices (Figure 4a). This would lead one of ordinary skill in the art to determine which other devices can be used for brokering command, eventually finding Maymudes finding a command broker for televisions, stereos, VCR's speakers, microwave ovens, etc (col. 7, lines 40-50).

14. Referring to claim 6 and 7, Escobosa-Allport discloses the invention substantively as described in claim 1. Escobosa-Allport does not disclose defining said desired

function is made by a measurement by the WIAD. In analogous art, Maymudes discloses another method of brokering on behalf of an intelligent device wherein defining said desired function is made by a measurement by the WIAD (i.e. computer facilitator 202) (col. 5, lines 35-43). Furthermore, since the WIAD is connected to the wireless network, and also the remote controller 204 and controlled device 206 are as well, it is considered that the measurement is done by the wireless communication network as well.). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Maymudes with Escobosa-Allport since Escobosa discloses the invention can be used with a plurality of different devices (Figure 4a). This would lead one of ordinary skill in the art to determine which other devices can be used for brokering command, eventually finding Maymudes finding a command broker for televisions, stereos, VCR's speakers, microwave ovens, etc (col. 7, lines 40-50).

15. Claims 14, and 16 are rejected for similar reasons as stated above.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Escobosa-Allport in view of Baun et al. (US 2003/0197930) (hereinafter Baun).

16. Escobosa-Allport discloses the invention substantively as described in claim 1. Escobosa-Allport does not disclose the intelligent device is a telescope and the defining step comprises determining coordinates based on a position. In analogous art, Baun

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discloses another method for brokering control which discloses intelligent device is a telescope (e.g. abstract) and the defining step comprises determining coordinates based on a position (p. 8, ¶ 87). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Baun with Escobosa-Allport since Escobosa discloses the invention can be used with a plurality of different devices (¶47). This would lead one of ordinary skill in the art to determine which other intelligent devices can be used for brokering command, eventually finding Baun finding a command broker for GPS systems for telescopes (col. 7, lines 40-50).

Response to Arguments

17. Applicant's arguments filed September 6, 2007 have been fully considered but are not persuasive.

18. In the remarks, Applicant argues, in substance, that (1) Escobosa does not disclose sending only a subset of the control instructions to the remote control, (2) Escobosa does not disclose that the remote control does not have a complete set of the control instructions.

19. As to point (1), Applicant is incorrect. As shown in ¶ 67 of Escobosa, an icon for the pay-per-view event is downloaded to the remote control, as well as a numeric code to be transmitted to the TV. This numeric code can be construed as a control instruction because it provides instructions to unlock the pay-per-view event on the TV.

Since when purchasing the item, only the icon and the numeric code is downloaded, this clearly meets the "only a subset of the control instructions" since no other information is downloaded. By this rationale, the rejection is maintained.

20. As to point (2), Applicant is incorrect. The numeric codes located within the remote control pertain to the pay-per-view events in which the user has purchased. Only those codes are downloaded. Therefore there are some control instructions (i.e. those pay-per-view events which the user has not purchased) which are not found in the client device. This meets the claimed limitation. By this rationale, the rejection is maintained.

Conclusion

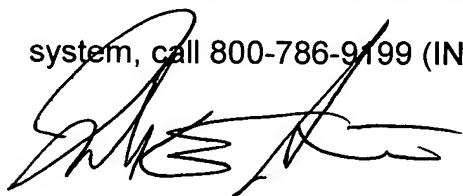
21. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph E. Avellino whose telephone number is (571) 272-3905. The examiner can normally be reached on Monday-Friday 7:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'J. Avellino', is written over the text of the signature block.

Joseph E. Avellino, Examiner
September 12, 2007